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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,155	09/12/2003	Steven C. Anderson	033297-140	6780

23492 7590 08/31/2005

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,155

Applicant(s)

ANDERSON ET AL.

Examiner

Michael G. Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-12 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 13-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/6/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

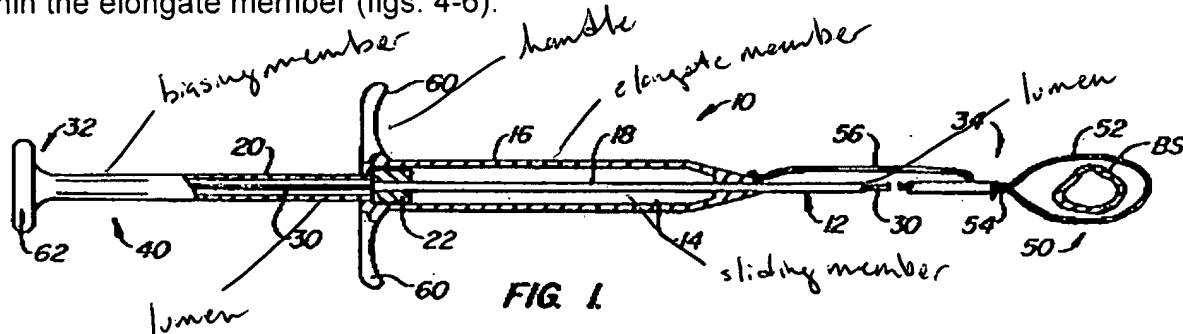
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

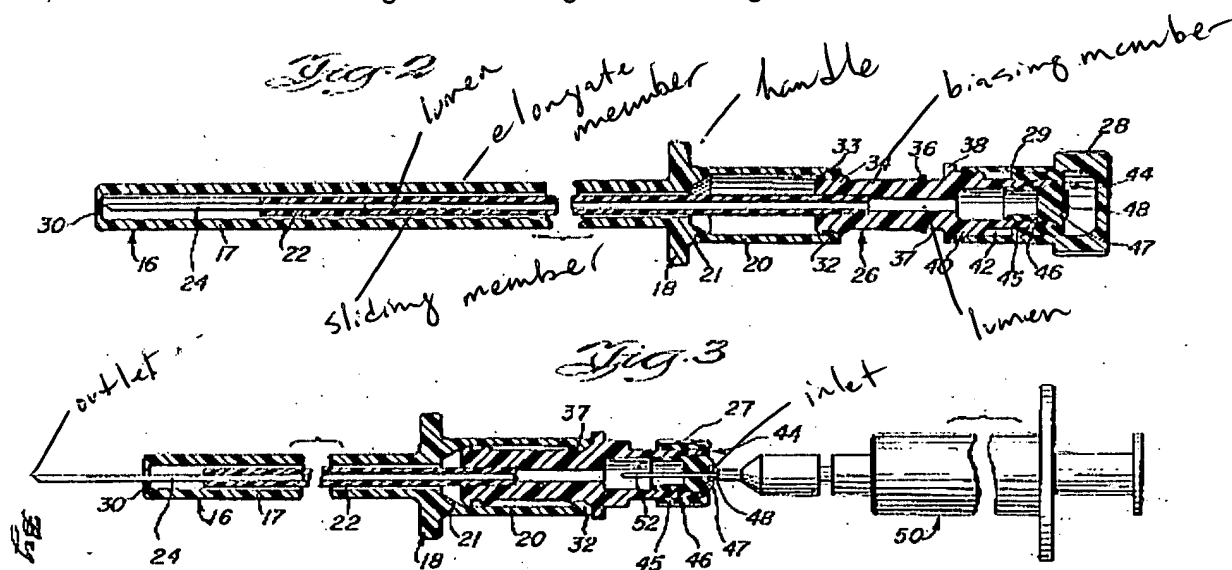
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 11, 12, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Buelna 5242459.

3. Buelna teaches a medical device comprising: a handle having a proximal end and a distal end; an elongate member extending from the distal end of the handle; a sliding member within the elongated member, the sliding member defining a first lumen; a biasing member operatively associated with the sliding member, the biasing member defining a second lumen in fluid communication with the first lumen; wherein the biasing member comprises a flexible tube (at 70); wherein the biasing member urges the sliding member in a distal direction; wherein the sliding member is a suture retainer and wherein the elongate member includes an opening suitable to accept a suture when the suture retainer is retracted proximally (figs. 4-6 & 9); and a cutting member slidable within the elongate member (figs. 4-6).



4. Claims 1-3 and 6-8 rejected under 35 U.S.C. 102(b) as being anticipated by Sadove et al. 3380448.
5. Sadove et al. teaches a medial device comprising: a handle having a proximal end and a distal end; an elongate member extending from the distal end of the handle; a sliding member within the elongated member, the sliding member defining a first lumen; a biasing member operatively associated with the sliding member, the biasing member defining a second lumen in fluid communication with the first lumen; wherein the biasing member comprises a flexible tube (col. 2, lines 12-14); wherein the flexible tube comprises a wall defining an agent delivery lumen and wherein the flexible tube further includes a stiffening member 24; an inlet port at the proximal end of the handle, the inlet port being in fluid communication with the first lumen and the second lumen; wherein the sliding member defined an outlet port in fluid communication with the first lumen; and wherein the biasing member urges the sliding member in a distal direction.



Allowable Subject Matter

6. Claims 21-23 are allowable over the prior art of record.
7. Claims 4, 5 and 13-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or render obvious the overall method comprising: providing an elongate member defining an opening for accepting a suture; a suture retainer slidably disposed within the elongate member, the suture retainer defining a first lumen; a biasing member defining a second lumen in fluid communication with the first lumen; an inlet port on a proximal end of a handle; connecting an agent carrying vessel to the inlet port; and moving an agent from the agent carrying vessel through the inlet port and further through the first lumen and second lumen.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-44963. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM


ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
8/22/03